

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85014107
LAW OFFICE ASSIGNED	LAW OFFICE 108
MARK SECTION (no change)	
ARGUMENT(S)	
<p>In the Office Actions emailed July 27, 1010 and March 1, 2011, the Examining Attorney refused to register "CASO CERRADO" ("Applicant's Mark") under Trademark Act § 2(d), 15 U.S.C. §1052(d), on the ground that Applicant's Mark so resembles the mark in U.S. Registration Nos. 3,389,686 and 3,522,410 for the mark "CASE CLOSED" (collectively, the "Cited Marks"), as to be likely to cause confusion, to cause mistake, or to deceive. Applicant respectfully asserts that no likelihood of confusion exists, and requests that the refusal to register be withdrawn in light of the following.</p> <p>I. Summary of Argument</p> <p>The existence of a likelihood of confusion must be determined on the basis of all evidence viewed in its entirety. In <i>In Re E.I. Du Pont DeNemours & Co.</i>, 476 F.2d 1357, 1360-62 (C.C.P.A. 1973), the court established a set of factors to be considered in evaluating a likelihood of confusion, which include: (1) the similarity or dissimilarity of the marks; (2) the similarity or dissimilarity of the associated goods and/or services; and (3) and similarity or dissimilarity of the channels of trade. See <i>id.</i>; T.M.E.P. § 1207.01. Additionally, a consent agreement should be given great weight, and the U.S. Patent and Trademark Office should not substitute its judgment concerning likelihood of confusion for the judgment of the parties in interest without good reason. See <i>Amalgamated Bank of New York v. Amalgamated Trust & Savings Bank</i>, 842 F.2d 1270 (Fed. Cir. 1988). The <i>DuPont</i> factors, coupled with the existence of a consent agreement from the owner of the Cited Marks, counsel strongly against finding a likelihood of confusion when applied to Applicant's Mark and the Cited Marks and the facts of the present case</p> <p>II. The "Likelihood of Confusion" Standard Has Not Been Met</p> <p>Applicant respectfully submits that, in considering the refusal to registration and the previous arguments submitted by Applicant, the Examining Attorney did not fully examine the relevant <i>Du Pont</i> factors and the factors weighing against a likelihood of confusion and based the refusal on a <i>possibility</i> of confusion rather than a likelihood or probability of confusion. Likelihood of confusion means a probability of confusion; a "possibility" of confusion is insufficient. See <i>Estee Lauder, Inc. v. The Gap, Inc.</i>, 108 F.3d 1503, 1510 (2d Cir. 1997). Furthermore, as noted in the prior response, while similarities in one word or element of the marks at issue may, at most, lead to the possibility of confusion, such "possibility" is not enough to satisfy the governing test: whether there is a likelihood of confusion. See <i>Electronic Design & Sales, Inc. v. Electronic Data Sys. Corp.</i>, 954 F.2d 713, 717 (C.C.P.A. 1996). Applicant respectfully submits that this standard has not been met here.</p>	

III. The Consent Agreement and Co-Existence Agreement Between Applicant and the Registrant for the Cited Marks Negates a Finding of a Likelihood of Confusion

Applicant respectfully submits the attached Consent Agreement from the registrant for the Cited Marks and requests that the refusal to register for this registration be withdrawn in light of the Consent Agreement, as well as the Co-Existence Agreement between the parties.

As noted above, a consent agreement should be given great weight, and the U.S. Patent and Trademark Office should not substitute its judgment concerning likelihood of confusion for the judgment of the parties in interest without good reason. *See Amalgamated Bank of New York v. Amalgamated Trust & Savings Bank*, 842 F.2d 1270 (Fed. Cir. 1988). As such, the Examining Attorney should give great weight to the attached Consent Agreement and should not interpose his or her own judgment concerning likelihood of confusion. As reflected in the Consent Agreement, the owner of the Cited Marks confirms that the parties' marks and goods and services are sufficiently dissimilar and that the likely to continue trade channels of the parties are divergent and dissimilar so that there is no likelihood of confusion between the marks at issue. Applicant also submits the Co-Existence Agreement between the parties that describes the arrangements undertaken by the parties to avoid confusion. Taken together, the agreements include a clear indication that the goods and services of the parties travel in divergent channels of trade and that the parties will make efforts to prevent confusion and cooperate to take steps to avoid any future confusion. *See In re Four Seasons Hotels Ltd.*, 987 F.2d 1565, 1569 (Fed. Cir. 1993).

In view of the terms Consent Agreement and Co-Existence Agreement, which sufficiently set forth in detail the factors which the parties believe mitigate against any likelihood of confusion between their marks, Applicant respectfully submits that the agreements negate a finding of a likelihood of confusion and requests that the refusal to register based on the Cited Marks be withdrawn.

Although Applicant believes that the Consent Agreement and Co-Existence Agreement are sufficient to overcome the refusal to register based on the Cited Marks, it respectfully submits the following arguments related to the Cited Marks which support a finding of no likelihood of confusion.

IV. The Marks are Dissimilar When Viewed in Their Entireties

A determination of a likelihood of confusion must include the appearance, sound, connotation and commercial impressions of the marks at issue. *See In re Du Pont*, 476 F.2d at 1360; T.M.E.P. § 1207.01. The fact that two marks contain a common identical term is **not** conclusive of the existence of likelihood of confusion and, in fact, does not mean that the marks are similar. *See General Mills, Inc. v. Kellogg Co.*, 824 F.2d 622, 627 (8th Cir. 1987); *see also Champagne Louis Roederer, S.A. v. Delicato Vineyards*, 148 F.3d 1373, 1374-75 (Fed. Cir. 1998). In the *Champagne* case, the court upheld the Board's dismissal of an opposition to the mark "CRYSTAL CREEK" for wine by the owner of the mark "CRISTAL" for champagne. The court properly focused on the *differences* between the marks, *i.e.*, the addition of the word "CREEK" to the applicant's mark. *Id.* Applicant respectfully submits that the Examining Attorney, unlike the court in the *Champagne* case, did not give proper weight to the differences between Applicant's Mark and the Cited Marks and, therefore, erroneously reached the conclusion that a likelihood of confusion exists between the marks.

While Applicant appreciates the doctrine of foreign equivalents, in this case, it does not believe that consumers will be confused. The marks differ entirely in sight and sound and are only similar in meaning. However, the Spanish equivalent of "CASE CLOSED" is not a well-known phrase across the general population. When considering that the marks differ in sight and sound and taking into account the differences between the parties goods and services and channels of trade, this factor weighs against a finding of a likelihood of confusion.

V. The Goods and/or Services Associated with Applicant's Mark and the Cited Marks and the Parties' Channels of Trade Are Dissimilar

A comparison of the goods and services covered by Applicant's Mark and those covered by the Cited Marks clearly illustrate the substantial dissimilarities between the parties' goods and services. While both parties' services are in the entertainment field, this is the extent of similarity between the services. Applicant's services include an ongoing services in the field of law. The services of the owner of the Cited Marks are in the nature of motion pictures in the field of animated entertainment and the goods consist if items related to comic strips and animated stories. As agreed by the parties, the goods and services and the channels of trade of the parties are sufficiently dissimilar so that consumers are unlikely to believe that they come from the same source, particularly given the difference between the marks in sight and sound. This factor therefore dictates a finding of no likelihood of confusion.

VI. CONCLUSION

Each of the required factors weighs against finding a likelihood of confusion between Applicant's Mark and the Cited Marks, and supports registration of Applicant's Mark. Specifically, the (1) dissimilarities between Applicant's Mark and the Cited Marks, (2) the dissimilarities between the parties' goods and/or services, and (3) the divergent channels of trade of the goods and/or services of the parties, support a finding of no likelihood of confusion. Taken with the Consent Agreement and Co-Existence Agreement between the parties, Applicant respectfully requests that the Examining Attorney reconsider the refusal to register, and that the Application be allowed to proceed to publication at the earliest possible date.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)

ORIGINAL PDF FILE [evi_6421410398-185908325 . Consent AGreement 2 .pdf](#)

CONVERTED PDF FILE(S)
(2 pages) [\\TICRS\EXPORT11\IMAGEOUT11\850\141\85014107\xml6\RFR0002.JPG](#)

[\\TICRS\EXPORT11\IMAGEOUT11\850\141\85014107\xml6\RFR0003.JPG](#)

ORIGINAL PDF FILE [evi_6421410398-185908325 . Trademark co-existence 2 .pdf](#)

CONVERTED PDF FILE(S)
(5 pages) [\\TICRS\EXPORT11\IMAGEOUT11\850\141\85014107\xml6\RFR0004.JPG](#)

[\\TICRS\EXPORT11\IMAGEOUT11\850\141\85014107\xml6\RFR0005.JPG](#)

[\\TICRS\EXPORT11\IMAGEOUT11\850\141\85014107\xml6\RFR0006.JPG](#)

[\\TICRS\EXPORT11\IMAGEOUT11\850\141\85014107\xml6\RFR0007.JPG](#)

[\\TICRS\EXPORT11\IMAGEOUT11\850\141\85014107\xml6\RFR0008.JPG](#)

DESCRIPTION OF EVIDENCE FILE Copies of agreements

SIGNATURE SECTION

RESPONSE SIGNATURE /S. Roxanne Edwards/

SIGNATORY'S NAME	S. Roxanne Edwards
SIGNATORY'S POSITION	Attorney
DATE SIGNED	09/01/2011
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Sep 01 19:03:15 EDT 2011
TEAS STAMP	USPTO/RFR-64.214.103.98-2 0110901190315882928-85014 107-4806b75a2795dafeba3ca c9a7ca8c24857-N/A-N/A-201 10901185908325057

PTO Form (Rev 4/2000)
OMB No. 0651-.... (Exp. 08/31/2004)

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **85014107** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

In the Office Actions emailed July 27, 1010 and March 1, 2011, the Examining Attorney refused to register "CASO CERRADO" ("Applicant's Mark") under Trademark Act § 2(d), 15 U.S.C. §1052(d), on the ground that Applicant's Mark so resembles the mark in U.S. Registration Nos. 3,389,686 and 3,522,410 for the mark "CASE CLOSED" (collectively, the "Cited Marks"), as to be likely to cause confusion, to cause mistake, or to deceive. Applicant respectfully asserts that no likelihood of confusion exists, and requests that the refusal to register be withdrawn in light of the following.

I. Summary of Argument

The existence of a likelihood of confusion must be determined on the basis of all evidence viewed in its entirety. In *In Re E.I. Du Pont DeNemours & Co.*, 476 F.2d 1357, 1360-62 (C.C.P.A. 1973), the court established a set of factors to be considered in evaluating a likelihood of confusion, which include: (1) the similarity or dissimilarity of the marks; (2) the similarity or dissimilarity of the associated goods and/or services; and (3) and similarity or dissimilarity of the channels of trade. *See id.*; T.M.E.P. § 1207.01. Additionally, a consent agreement should be given great weight, and the U.S. Patent and Trademark Office should not substitute its judgment concerning likelihood of confusion for the judgment of the parties in interest without good reason.

See *Amalgamated Bank of New York v. Amalgamated Trust & Savings Bank*, 842 F.2d 1270 (Fed. Cir. 1988). The *DuPont* factors, coupled with the existence of a consent agreement from the owner of the Cited Marks, counsel strongly **against** finding a likelihood of confusion when applied to Applicant's Mark and the Cited Marks and the facts of the present case

II. The "Likelihood of Confusion" Standard Has Not Been Met

Applicant respectfully submits that, in considering the refusal to registration and the previous arguments submitted by Applicant, the Examining Attorney did not fully examine the relevant *Du Pont* factors and the factors weighing against a likelihood of confusion and based the refusal on a *possibility* of confusion rather than a likelihood or probability of confusion. Likelihood of confusion means a probability of confusion; a "possibility" of confusion is insufficient. See *Estee Lauder, Inc. v. The Gap, Inc.*, 108 F.3d 1503, 1510 (2d Cir. 1997). Furthermore, as noted in the prior response, while similarities in one word or element of the marks at issue may, at most, lead to the possibility of confusion, such "possibility" is not enough to satisfy the governing test: whether there is a **likelihood** of confusion. See *Electronic Design & Sales, Inc. v. Electronic Data Sys. Corp.*, 954 F.2d 713, 717 (C.C.P.A. 1969). Applicant respectfully submits that this standard has not been met here.

III. The Consent Agreement and Co-Existence Agreement Between Applicant and the Registrant for the Cited Marks Negates a Finding of a Likelihood of Confusion

Applicant respectfully submits the attached Consent Agreement from the registrant for the Cited Marks and requests that the refusal to register for this registration be withdrawn in light of the Consent Agreement, as well as the Co-Existence Agreement between the parties.

As noted above, a consent agreement should be given great weight, and the U.S. Patent and Trademark Office should not substitute its judgment concerning likelihood of confusion for the judgment of the parties in interest without good reason. See *Amalgamated Bank of New York v. Amalgamated Trust & Savings Bank*, 842 F.2d 1270 (Fed. Cir. 1988). As such, the Examining Attorney should give great weight to the attached Consent Agreement and should not interpose his or her own judgment concerning likelihood of confusion. As reflected in the Consent Agreement, the owner of the Cited Marks confirms that the parties' marks and goods and services are sufficiently dissimilar and that the likely to continue trade channels of the parties are divergent and dissimilar so that there is no likelihood of confusion between the marks at issue. Applicant also submits the Co-Existence Agreement between the parties that describes the arrangements undertaken by the parties to avoid confusion. Taken together, the agreements include a clear indication that the goods and services of the parties travel in divergent channels of trade and that the parties will make efforts to prevent confusion and cooperate to take steps to avoid any future confusion. See *In re Four Seasons Hotels Ltd.*, 987 F.2d 1565, 1569 (Fed. Cir. 1993).

In view of the terms Consent Agreement and Co-Existence Agreement, which sufficiently set forth in detail the factors which the parties believe mitigate against any likelihood of confusion between their marks, Applicant respectfully submits that the agreements negate a finding of a likelihood of confusion and requests that the refusal to register based on the Cited Marks be withdrawn.

Although Applicant believes that the Consent Agreement and Co-Existence Agreement are sufficient to overcome the refusal to register based on the Cited Marks, it respectfully submits the following arguments related to the Cited Marks which support a finding of no likelihood of confusion.

IV. The Marks are Dissimilar When Viewed in Their Entireties

A determination of a likelihood of confusion must include the appearance, sound, connotation and commercial impressions of the marks at issue. See *In re Du Pont*, 476 F.2d at 1360; T.M.E.P. § 1207.01. The fact that two

marks contain a common identical term is **not** conclusive of the existence of likelihood of confusion and, in fact, does not mean that the marks are similar. See *General Mills, Inc. v. Kellogg Co.*, 824 F.2d 622, 627 (8th Cir. 1987); see also *Champagne Louis Roederer, S.A. v. Delicato Vineyards*, 148 F.3d 1373, 1374-75 (Fed. Cir. 1998). In the *Champagne* case, the court upheld the Board's dismissal of an opposition to the mark "CRYSTAL CREEK" for wine by the owner of the mark "CRISTAL" for champagne. The court properly focused on the *differences* between the marks, *i.e.*, the addition of the word "CREEK" to the applicant's mark. *Id.* Applicant respectfully submits that the Examining Attorney, unlike the court in the *Champagne* case, did not give proper weight to the differences between Applicant's Mark and the Cited Marks and, therefore, erroneously reached the conclusion that a likelihood of confusion exists between the marks.

While Applicant appreciates the doctrine of foreign equivalents, in this case, it does not believe that consumers will be confused. The marks differ entirely in sight and sound and are only similar in meaning. However, the Spanish equivalent of "CASE CLOSED" is not a well-known phrase across the general population. When considering that the marks differ in sight and sound and taking into account the differences between the parties goods and services and channels of trade, this factor weighs against a finding of a likelihood of confusion.

V. The Goods and/or Services Associated with Applicant's Mark and the Cited Marks and the Parties' Channels of Trade Are Dissimilar

A comparison of the goods and services covered by Applicant's Mark and those covered by the Cited Marks clearly illustrate the substantial dissimilarities between the parties' goods and services. While both parties' services are in the entertainment field, this is the extent of similarity between the services. Applicant's services include an ongoing services in the field of law. The services of the owner of the Cited Marks are in the nature of motion pictures in the field of animated entertainment and the goods consist if items related to comic strips and animated stories. As agreed by the parties, the goods and services and the channels of trade of the parties are sufficiently dissimilar so that consumers are unlikely to believe that they come from the same source, particularly given the difference between the marks in sight and sound. This factor therefore dictates a finding of no likelihood of confusion.

VI. CONCLUSION

Each of the required factors weighs against finding a likelihood of confusion between Applicant's Mark and the Cited Marks, and supports registration of Applicant's Mark. Specifically, the (1) dissimilarities between Applicant's Mark and the Cited Marks, (2) the dissimilarities between the parties' goods and/or services, and (3) the divergent channels of trade of the goods and/or services of the parties, support a finding of no likelihood of confusion. Taken with the Consent Agreement and Co-Existence Agreement between the parties, Applicant respectfully requests that the Examining Attorney reconsider the refusal to register, and that the Application be allowed to proceed to publication at the earliest possible date.

EVIDENCE

Evidence in the nature of Copies of agreements has been attached.

Original PDF file:

[evi_6421410398-185908325_. Consent_Agreement_2_.pdf](#)

Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

Original PDF file:

[evi_6421410398-185908325_. Trademark_co-existence_2_.pdf](#)

Converted PDF file(s) (5 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /S. Roxanne Edwards/ Date: 09/01/2011

Signatory's Name: S. Roxanne Edwards

Signatory's Position: Attorney

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 85014107

Internet Transmission Date: Thu Sep 01 19:03:15 EDT 2011

TEAS Stamp: USPTO/RFR-64.214.103.98-2011090119031588

2928-85014107-4806b75a2795dafeba3cac9a7c

a8c24857-N/A-N/A-20110901185908325057

CONSENT AGREEMENT

This consent agreement, effective upon the last date of signature below (this "Agreement"), is by and between Shogakukan-Shueisha Productions Co., Ltd., a Japanese corporation with its principal place of business at 2-30 Kanda Jinbocho Chiyoda-Ku, Showa Building, Tokyo, Japan 101-8415 ("ShoPro") and Caso Cerrado, Inc., a Florida corporation with its principal place of business at 229 Alhambra Circle, Suite 401, Coral Gables, Florida 33134 ("Caso Cerrado")(hereinafter, ShoPro and Caso Cerrado are collectively referred to as the "Parties" or individually as "Party").

WHEREAS, ShoPro is the owner of U.S. trademark Registration No. 3389686 for CASE CLOSED;

WHEREAS, Caso Cerrado is the owner of U.S. Application Serial No. 85/014107 for CASO CERRADO;

WHEREAS, the Parties believe that their marks and/or respective goods and/or services, as well as the channels of trade of the Parties' goods and/or services, are dissimilar so that no likelihood of confusion exists between their respective marks as used and/or registered in connection with their respective goods and services and have separately entered into that separate Trademark Co-Existence Agreement, dated _____, 2011; and

WHEREAS, the Parties are unaware of any instances of confusion between their respective marks.

NOW, THEREFORE, in consideration of the mutual covenants, premises, and understandings herein contained, the Parties agree as follows:

1. ShoPro consents to Case Cerrado's use and registration of CASO CERRADO in connection with an on-going television series in the field of law, arbitration and mediation.
2. The Parties agree to take all reasonable steps necessary to eliminate any potential confusion of the source of their goods and services bearing the Parties' marks, respectively, and to communicate if there is any potential for customer confusion or evidence of actual customer confusion and to cooperate with each other to eliminate or minimize any such confusion.
3. No waiver of, or modifications to, this Agreement or any of its provisions shall be made

except in a writing executed by the Parties to this Agreement.

4. This Agreement shall be valid and binding on both Parties, on their assigns or successors-in-interest, and on anyone who is licensed by either party to use the marks named above.

IN WITNESS OF THIS AGREEMENT, the Parties have duly executed this Agreement on the dates set forth below.

Shogakukan-Shueisha Productions Co., Ltd.

Date: 08/24/2011

By: Masao Yaghi

Printed Name: Masao Yaghi

Title: President and CEO

Caso Cerrado, Inc.

Date: _____

By: _____

Printed Name: _____

Title: _____

TRADEMARK CO-EXISTENCE AGREEMENT

This Trademark Consent and Co-Existence Agreement (this "Agreement") is made by and between Shogakukan-Shueisha Productions Co., Ltd., a Japanese corporation with its principal place of business at 2-30 Kanda Jinbocho Chiyoda-Ku, Showa Building, Tokyo, Japan 101-8415 ("ShoPro") and Caso Cerrado, Inc., a Florida corporation with its principal place of business at 229 Alhambra Circle, Suite 401, Coral Gables, Florida 33134 ("Caso Cerrado") (hereinafter, ShoPro and Caso Cerrado are collectively referred to as the "Parties" or individually as "Party").

WHEREAS, since at least as early as May 2004, ShoPro and/or its predecessors in interest have been continuously engaged in the entertainment industry, including the production and distribution of motion pictures in the field of animated entertainment, in the United States and in other jurisdictions throughout the world under the mark CASE CLOSED ("ShoPro's Mark").

WHEREAS, ShoPro is the owner of the United States trademark Registration No. 3389686 for ShoPro's Mark (the "ShoPro Registration").

WHEREAS, since at least as early as January 2005, Caso Cerrado and/or its predecessors in interest have been continuously engaged in providing an on-going television series in the field of law, arbitration and mediation under the mark CASO CERRADO ("Caso Cerrado's Mark").

WHEREAS, Caso Cerrado is the owner of the United States trademark Application No. 85/014107 for Caso Cerrado's Mark (the "Caso Cerrado Application").

WHEREAS, the Parties recently became aware of the other Party's mark.

WHEREAS, the Parties wish to avoid any potential confusion in relation to their use of their respective marks and to resolve any potential disputes and all outstanding issues regarding the use and registration of their respective marks.

NOW, THEREFORE, for and in consideration of the foregoing and of the mutual covenants, promises and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant, promise and agree as follows:

1. Use and Registration of Trademarks By Parties

a. Caso Cerrado agrees that it will not use and/or register the Caso Cerrado Mark on or in connection with an animated or live action entertainment series for broadcast over television, satellite, a global computer network or other audio and video media, whether now known or hereafter developed, or product and/or services relating to such a series, and will not use CASE CLOSED or a derivative thereof as part of any name, mark or other designation in connection with any goods and/or services

b. ShoPro agrees that it will not use and/or register the ShoPro Mark on or in connection with a series or program in the field of law, arbitration and/or mediation, for broadcast over television, satellite, a global computer network or other audio and video media, whether now known or hereafter developed, and will not use CASO CERRADO or a derivative thereof as part of any name, mark or other designation in connection with a series or program in the field of law, arbitration and/or mediation, for delivery in any media, or products and/or services associated with such series or program. For the avoidance of ambiguity, nothing in the agreement shall preclude ShoPro from using and/or registering the ShoPro Mark in connection with a live-action drama program, series or film based on the Case Closed animated series it currently produces, and Caso Cerrado agrees not to challenge such use and/or

registration and to assist ShoPro in obtaining such registrations if necessary.

c. The Parties shall not intentionally promote their goods and/or services in a manner which could cause confusion or indicate an association with the other Party.

d. ShoPro agrees that it will not directly or indirectly challenge, object to, oppose, contest or attack the use or registration of Caso Cerrado's Mark unless the use, application or registration is not in conformity with this Agreement.

e. Caso Cerrado agrees that it will not directly or indirectly challenge, object to, oppose, contest or attack the use or registration of ShoPro's Mark unless the use, application or registration is not in conformity with this Agreement.

2. Use of Trademark(s) By Third Parties

Both Parties shall be allowed to permit others, to whom they have extended licenses or franchises in the ordinary course of their business, to use the Parties' respective trademarks in accordance with the terms of this Agreement.

3. Prevention of Confusion

If, notwithstanding these restrictions, either Party becomes aware of an instance of confusion pertaining to the subject matter of this Agreement, the Parties agree that they shall take such reasonable measures as are necessary to remedy the confusion, and shall endeavor to avoid similar confusion in the future.

4. Term

This Agreement shall become effective upon the date last signed by the Parties hereto (the "Effective Date") and shall remain in force in perpetuity for so long as both parties hold valid trademark rights at issue in this Agreement in their respective marks at issue in this Agreement. In the event a party abandons such rights or is finally adjudicated to have lost the trademark rights at issue in this Agreement, the other side shall be relieved of its obligations and restrictions contained herein.

5. Notice of Breach and Opportunity to Cure

In the event that either Party breaches any provision of this Agreement, the other Party shall notify the breaching Party in writing of such breach and state in such written notice in reasonable detail the facts constituting such breach. Such other Party may not exercise any rights regarding such breach unless the breaching Party fails to fully cure such breach or take good faith action to fully cure such breach within ninety (90) days from the date such notice is received by the breaching Party; provided, however, that neither Party shall be prevented from taking any immediate action if such immediate action is taken in good faith and necessary to avoid any material harm to any of its intellectual property or intellectual property rights and such material harm would or would likely materialize within the ninety (90) day cure period without such immediate action.

6. Notices

All notices required or permitted to be made or given pursuant to this Agreement shall be in writing and shall be considered as properly given or made when personally delivered, mailed or emailed to the respective addresses set forth below:

If to ShoPro:

International Licensing & Sales Department
Shogakukan-Shueisha Productions Co., Ltd.
Showa Building 6F, 2-30 Kanda, Jinbocho
Chiyoda-Ku, Tokyo 101-8415
JAPAN
Email: international@shopro.co.jp

With copy to:

Rosemary S. Tarlton
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105
Email: rtarlton@mof.com

and

VIZ Media, LLC
Attn: Legal Department
295 Bay Street
San Francisco, CA 94113
Email: legal@viz.com

If to Caso Cerrado:

AnaMaria Polo and Marlene C. Key
Caso Cerrado, Inc.
13305 Biscayne Bay Terrace
North Miami, Florida 33181
Email: polokey@aol.com

With copy to:

S. Roxanne Edwards
Baker & McKenzie LLP
2300 Trammell Crow Center
2001 Ross Avenue
Dallas, TX 75201
Email: roxanne.edwards@bakermckenzie.com

and

Effie D. Silva
Baker & McKenzie LLP
Sabadell Mellon Financial
1111 Brickell Avenue, Suite 1700

Miami, FL 33131
Email: effie.silva@bakermckenzie.com

7. Entire Agreement and Amendment

This Agreement, including any and all attachments hereto, sets forth the entire understanding and agreement of the Parties and supersedes any and all oral or written agreements or understandings between the Parties as to the subject matter of this Agreement. It may be changed, waived, or modified only by a writing signed by the Parties. Neither Party is relying upon any warranties, representations, assurances or inducements not expressly set forth herein. No waiver of any provision, condition, or breach of this Agreement shall be construed as a waiver of any other provision, condition, or breach.

8. Further Assurances

The Parties agree to promptly do, make, execute, deliver or cause to be done, made, executed or delivered all such further acts, documents and things as the other Party hereto may reasonably require for the purpose of giving effect to this Agreement, whether before or after execution and delivery, including, but not limited to, execution of letters of consent or similar documents within a reasonable period of time from receipt of same from the other Party. The requesting Party shall bear the costs associated with the foregoing obligations.

9. Legal Fees

Caso Cerrado agrees to bear responsibility for payment up to \$5,000 for the legal fees and costs incurred by ShoPro and its designated representatives associated with the preparation and execution of this Agreement. ShoPro or its designated representative shall provide Caso Cerrado with a detailed invoice of such legal fees and costs within 45 days of the Effective Date of this Agreement. Caso Cerrado shall submit payment in full to ShoPro or its designated representative, as directed in the aforementioned invoice, within 30 days of receipt of the detailed invoice.

10. Assignment

This Agreement may not be assigned or otherwise transferred by Caso Cerrado without ShoPro's prior written consent and any such purported assignment or transfer shall be void upon attempt.

11. Beneficiaries

This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective heirs, personal representatives, licensees, franchisees, devisees, successors in trust, successors and assigns, administrators, officers, directors, shareholders, members, managers, partners, agents, employees, attorneys, subsidiaries, parent corporations, affiliates, successors in interest, successors through merger or corporate restructure, and successors through a sale of all or substantially all of the assets or business, and anyone else acting on their behalf.

12. Choice of Law

This Agreement shall be governed by, construed and enforced according to the laws of the State of California and of the United States of America, notwithstanding any conflicts of law or choice of law principle to the contrary. The Parties agree that the State of California has a substantial relationship to this

Agreement. Each Party agrees that the state and federal courts located in the State of California shall have personal jurisdiction over it. Accordingly, any litigation arising out of or otherwise relating to this Agreement must be brought in the State of California, in the state or federal court having subject matter jurisdiction, and each Party hereby submits to personal jurisdiction in such court.

13. Effect of Provisions Declared Void or Unenforceable

The Parties acknowledge that if any section, or portion thereof, of this Agreement is held invalid by reason of any law, statute or regulation existing now or in the future in any jurisdiction by any court of competent authority or by a legally enforceable directive of any governmental body, such section or portion thereof shall be validly reformed so as to approximate the intent of the Parties as nearly as possible and, if unreformable, shall be deemed divisible and deleted with respect to such jurisdiction and this Agreement shall not otherwise be affected.

14. Counterparts

For the convenience of the Parties, this Agreement may be executed in multiple counterparts. Each Party shall deliver to the other Party a signed original of the counterpart executed by such Party. Each Party's signature page to a counterpart may be appended to any other counterpart to produce a complete document with the signature of all Parties. In any event, each executed counterpart shall be considered an original of one and the same agreement if each Party has executed at least one counterpart.

IN WITNESS WHEREOF, each of the Parties hereto has executed this Agreement on the date designated.

Shogakukan-Shueisha Productions Co., Ltd.

Date: 08/24/2011

By: Masao Yaghi

Printed Name: Masao Yaghi

Title: president and CEO

Caso Cerrado, Inc.

Date: _____

By: _____

Printed Name: _____

Title: _____